

EHB 3159 - S COMM AMD
By Committee on Ways & Means

NOT ADOPTED 03/07/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
4 to read as follows:

5 (1) This chapter shall not apply to the value of products or the
6 gross proceeds of sales derived from:

7 (a) Manufacturing dairy products; or

8 (b) Selling manufactured dairy products to purchasers who transport
9 in the ordinary course of business the goods out of this state. A
10 person taking an exemption under this subsection (1)(b) must keep and
11 preserve records for the period required by RCW 82.32.070 establishing
12 that the goods were transported by the purchaser in the ordinary course
13 of business out of this state.

14 (2) "Dairy products" means dairy products that as of September 20,
15 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
16 including byproducts from the manufacturing of the dairy products such
17 as whey and casein.

18 (3) This section expires July 1, 2012.

19 **Sec. 2.** RCW 82.04.4266 and 2005 c 513 s 1 are each amended to read
20 as follows:

21 (1) This chapter shall not apply to ((amounts received from)) the
22 value of products or the gross proceeds of sales derived from:

23 ((+1)) (a) Manufacturing fruits or vegetables by canning,
24 preserving, freezing, processing, or dehydrating fresh fruits ((and))
25 or vegetables; or

26 ((+2)) (b) Selling at wholesale ((fresh)) fruits ((and)) or
27 vegetables ((canned, preserved, frozen, processed, or dehydrated))
28 manufactured by the seller by canning, preserving, freezing,
29 processing, or dehydrating fresh fruits or vegetables and sold to

1 purchasers who transport in the ordinary course of business the goods
2 out of this state. (~~As proof of sale to a person who transports in~~
3 ~~the ordinary course of business goods out of this state, the seller~~
4 ~~shall annually provide a statement in a form prescribed by the~~
5 ~~department and retain the statement as a business record.)) A person
6 taking an exemption under this subsection (1)(b) must keep and preserve
7 records for the period required by RCW 82.32.070 establishing that the
8 goods were transported by the purchaser in the ordinary course of
9 business out of this state.~~

10 (2) This section expires July 1, 2012.

11 **Sec. 3.** RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are
12 each reenacted and amended to read as follows:

13 (1) Upon every person engaging within this state in the business of
14 manufacturing:

15 (a) Wheat into flour, barley into pearl barley, soybeans into
16 soybean oil, canola into canola oil, canola meal, or canola byproducts,
17 or sunflower seeds into sunflower oil; as to such persons the amount of
18 tax with respect to such business shall be equal to the value of the
19 flour, pearl barley, oil, canola meal, or canola byproduct
20 manufactured, multiplied by the rate of 0.138 percent;

21 (b) Seafood products which remain in a raw, raw frozen, or raw
22 salted state at the completion of the manufacturing by that person; as
23 to such persons the amount of tax with respect to such business shall
24 be equal to the value of the products manufactured, multiplied by the
25 rate of 0.138 percent;

26 (c) Beginning July 1, 2012, dairy products that as of September 20,
27 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
28 including byproducts from the manufacturing of the dairy products such
29 as whey and casein; or selling the same to purchasers who transport in
30 the ordinary course of business the goods out of state; as to such
31 persons the tax imposed shall be equal to the value of the products
32 manufactured or the gross proceeds derived from such sales multiplied
33 by the rate of 0.138 percent. (~~As proof of sale to a person who~~
34 transports in the ordinary course of business goods out of this state,
35 the seller shall annually provide a statement in a form prescribed by
36 the department and retain the statement as a business record)) Sellers

1 must keep and preserve records for the period required by RCW 82.32.070
2 establishing that the goods were transported by the purchaser in the
3 ordinary course of business out of this state;

4 (d) Beginning July 1, 2012, fruits or vegetables by canning,
5 preserving, freezing, processing, or dehydrating fresh fruits or
6 vegetables, or selling at wholesale fruits or vegetables manufactured
7 by the seller by canning, preserving, freezing, processing, or
8 dehydrating fresh fruits or vegetables and sold to purchasers who
9 transport in the ordinary course of business the goods out of this
10 state; as to such persons the amount of tax with respect to such
11 business shall be equal to the value of the products manufactured or
12 the gross proceeds derived from such sales multiplied by the rate of
13 0.138 percent. Sellers must keep and preserve records for the period
14 required by RCW 82.32.070 establishing that the goods were transported
15 by the purchaser in the ordinary course of business out of this state;

16 ~~((d))~~ (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or
17 biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as
18 to such persons the amount of tax with respect to the business shall be
19 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel
20 feedstock manufactured, multiplied by the rate of 0.138 percent; and

21 ~~((e))~~ (f) Alcohol fuel or wood biomass fuel, as those terms are
22 defined in RCW 82.29A.135; as to such persons the amount of tax with
23 respect to the business shall be equal to the value of alcohol fuel or
24 wood biomass fuel manufactured, multiplied by the rate of 0.138
25 percent.

26 (2) Upon every person engaging within this state in the business of
27 splitting or processing dried peas; as to such persons the amount of
28 tax with respect to such business shall be equal to the value of the
29 peas split or processed, multiplied by the rate of 0.138 percent.

30 (3) Upon every nonprofit corporation and nonprofit association
31 engaging within this state in research and development, as to such
32 corporations and associations, the amount of tax with respect to such
33 activities shall be equal to the gross income derived from such
34 activities multiplied by the rate of 0.484 percent.

35 (4) Upon every person engaging within this state in the business of
36 slaughtering, breaking and/or processing perishable meat products
37 and/or selling the same at wholesale only and not at retail; as to such

1 persons the tax imposed shall be equal to the gross proceeds derived
2 from such sales multiplied by the rate of 0.138 percent.

3 (5) Upon every person engaging within this state in the business of
4 acting as a travel agent or tour operator; as to such persons the
5 amount of the tax with respect to such activities shall be equal to the
6 gross income derived from such activities multiplied by the rate of
7 0.275 percent.

8 (6) Upon every person engaging within this state in business as an
9 international steamship agent, international customs house broker,
10 international freight forwarder, vessel and/or cargo charter broker in
11 foreign commerce, and/or international air cargo agent; as to such
12 persons the amount of the tax with respect to only international
13 activities shall be equal to the gross income derived from such
14 activities multiplied by the rate of 0.275 percent.

15 (7) Upon every person engaging within this state in the business of
16 stevedoring and associated activities pertinent to the movement of
17 goods and commodities in waterborne interstate or foreign commerce; as
18 to such persons the amount of tax with respect to such business shall
19 be equal to the gross proceeds derived from such activities multiplied
20 by the rate of 0.275 percent. Persons subject to taxation under this
21 subsection shall be exempt from payment of taxes imposed by chapter
22 82.16 RCW for that portion of their business subject to taxation under
23 this subsection. Stevedoring and associated activities pertinent to
24 the conduct of goods and commodities in waterborne interstate or
25 foreign commerce are defined as all activities of a labor, service or
26 transportation nature whereby cargo may be loaded or unloaded to or
27 from vessels or barges, passing over, onto or under a wharf, pier, or
28 similar structure; cargo may be moved to a warehouse or similar holding
29 or storage yard or area to await further movement in import or export
30 or may move to a consolidation freight station and be stuffed,
31 unstuffed, containerized, separated or otherwise segregated or
32 aggregated for delivery or loaded on any mode of transportation for
33 delivery to its consignee. Specific activities included in this
34 definition are: Wharfage, handling, loading, unloading, moving of
35 cargo to a convenient place of delivery to the consignee or a
36 convenient place for further movement to export mode; documentation
37 services in connection with the receipt, delivery, checking, care,
38 custody and control of cargo required in the transfer of cargo;

1 imported automobile handling prior to delivery to consignee; terminal
2 stevedoring and incidental vessel services, including but not limited
3 to plugging and unplugging refrigerator service to containers,
4 trailers, and other refrigerated cargo receptacles, and securing ship
5 hatch covers.

6 (8) Upon every person engaging within this state in the business of
7 disposing of low-level waste, as defined in RCW 43.145.010; as to such
8 persons the amount of the tax with respect to such business shall be
9 equal to the gross income of the business, excluding any fees imposed
10 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

11 If the gross income of the taxpayer is attributable to activities
12 both within and without this state, the gross income attributable to
13 this state shall be determined in accordance with the methods of
14 apportionment required under RCW 82.04.460.

15 (9) Upon every person engaging within this state as an insurance
16 agent, insurance broker, or insurance solicitor licensed under chapter
17 48.17 RCW; as to such persons, the amount of the tax with respect to
18 such licensed activities shall be equal to the gross income of such
19 business multiplied by the rate of 0.484 percent.

20 (10) Upon every person engaging within this state in business as a
21 hospital, as defined in chapter 70.41 RCW, that is operated as a
22 nonprofit corporation or by the state or any of its political
23 subdivisions, as to such persons, the amount of tax with respect to
24 such activities shall be equal to the gross income of the business
25 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
26 percent thereafter. The moneys collected under this subsection shall
27 be deposited in the health services account created under RCW
28 43.72.900.

29 (11)(a) Beginning October 1, 2005, upon every person engaging
30 within this state in the business of manufacturing commercial
31 airplanes, or components of such airplanes, as to such persons the
32 amount of tax with respect to such business shall, in the case of
33 manufacturers, be equal to the value of the product manufactured, or in
34 the case of processors for hire, be equal to the gross income of the
35 business, multiplied by the rate of:

36 (i) 0.4235 percent from October 1, 2005, through the later of June
37 30, 2007, or the day preceding the date final assembly of a

1 superefficient airplane begins in Washington state, as determined under
2 RCW 82.32.550; and

3 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
4 date final assembly of a superefficient airplane begins in Washington
5 state, as determined under RCW 82.32.550.

6 (b) Beginning October 1, 2005, upon every person engaging within
7 this state in the business of making sales, at retail or wholesale, of
8 commercial airplanes, or components of such airplanes, manufactured by
9 that person, as to such persons the amount of tax with respect to such
10 business shall be equal to the gross proceeds of sales of the airplanes
11 or components multiplied by the rate of:

12 (i) 0.4235 percent from October 1, 2005, through the later of June
13 30, 2007, or the day preceding the date final assembly of a
14 superefficient airplane begins in Washington state, as determined under
15 RCW 82.32.550; and

16 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
17 date final assembly of a superefficient airplane begins in Washington
18 state, as determined under RCW 82.32.550.

19 (c) For the purposes of this subsection (11), "commercial
20 airplane," "component," and "final assembly of a superefficient
21 airplane" have the meanings given in RCW 82.32.550.

22 (d) In addition to all other requirements under this title, a
23 person eligible for the tax rate under this subsection (11) must report
24 as required under RCW 82.32.545.

25 (e) This subsection (11) does not apply after the earlier of: July
26 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
27 does not begin by December 31, 2007, as determined under RCW 82.32.550.

28 **Sec. 4.** RCW 82.32.610 and 2005 c 513 s 3 are each amended to read
29 as follows:

30 (1) The legislature finds that accountability and effectiveness are
31 important aspects of setting tax policy. In order to make policy
32 choices regarding the best use of limited state resources the
33 legislature needs information on how a tax incentive is used.

34 (2) Each person claiming a tax exemption under RCW 82.04.4266 or
35 section 1 of this act shall report information to the department by
36 filing a complete annual survey. The survey is due by March 31st of
37 the year following any calendar year in which a tax exemption under RCW

1 82.04.4266 or section 1 of this act is taken. The department may
2 extend the due date for timely filing of annual surveys under this
3 section as provided in RCW 82.32.590. The survey shall include the
4 amount of tax exemption taken. The survey shall also include the
5 following information for employment positions in Washington:

6 (a) The number of total employment positions;

7 (b) Full-time, part-time, and temporary employment positions as a
8 percent of total employment;

9 (c) The number of employment positions according to the following
10 wage bands: Less than thirty thousand dollars; thirty thousand dollars
11 or greater, but less than sixty thousand dollars; and sixty thousand
12 dollars or greater. A wage band containing fewer than three
13 individuals may be combined with another wage band; and

14 (d) The number of employment positions that have employer-provided
15 medical, dental, and retirement benefits, by each of the wage bands.

16 The first survey filed under this subsection shall also include
17 information for the twelve-month period immediately before first use of
18 a tax incentive.

19 (3) The department may request additional information necessary to
20 measure the results of the exemption program, to be submitted at the
21 same time as the survey.

22 (4) All information collected under this section, except the amount
23 of the tax exemption taken, is deemed taxpayer information under RCW
24 82.32.330. Information on the amount of tax exemption taken is not
25 subject to the confidentiality provisions of RCW 82.32.330.

26 (5) If a person fails to submit an annual survey under subsection
27 (2) of this section by the due date of the report or any extension
28 under RCW 82.32.590, the department shall declare the amount of taxes
29 exempted for the previous calendar year to be immediately due and
30 payable. The department shall assess interest, but not penalties, on
31 the amounts due under this section. The amount due shall be calculated
32 using a rate of 0.138 percent. The interest shall be assessed at the
33 rate provided for delinquent taxes under this chapter, retroactively to
34 the date the exemption was claimed, and shall accrue until the taxes
35 for which the exemption was claimed are repaid. This information is
36 not subject to the confidentiality provisions of RCW 82.32.330.

37 (6) The department shall use the information from this section to
38 prepare summary descriptive statistics by category. No fewer than

1 three taxpayers shall be included in any category. The department
2 shall report these statistics to the legislature each year by September
3 1st.

4 (7) The department shall study the tax exemption authorized in RCW
5 82.04.4266 and section 1 of this act. The department shall submit a
6 report to the finance committee of the house of representatives and the
7 ways and means committee of the senate by December 1, 2011. The report
8 shall measure the effect of the exemption on job creation, job
9 retention, company growth, the movement of firms or the consolidation
10 of firms' operations into the state, and such other factors as the
11 department selects.

12 **Sec. 5.** RCW 82.74.010 and 2005 c 513 s 4 are each amended to read
13 as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

16 (1) "Applicant" means a person applying for a tax deferral under
17 this chapter.

18 (2) "Cold storage warehouse" means a storage warehouse (~~used~~)
19 owned or operated by a wholesaler or third-party warehouser as those
20 terms are defined in RCW 82.08.820 to store fresh and/or frozen
21 perishable fruits or vegetables, dairy products, eggs or egg products,
22 or any combination thereof, at a desired temperature to maintain the
23 quality of the product for orderly marketing.

24 (3) "Dairy product" means dairy products that as of September 20,
25 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
26 including byproducts from the manufacturing of the dairy products such
27 as whey and casein.

28 (4) "Dairy product manufacturing" means manufacturing, as defined
29 in RCW 82.04.120, of dairy products.

30 (5) "Department" means the department of revenue.

31 (~~(4)~~) (6) "Egg" means eggs that as of March 1, 2000, are
32 identified in 7 C.F.R., chapter 1, part 94.

33 (7) "Egg handling" means inspecting, candling, breaking, or
34 packaging eggs, or filtering, mixing, blending, pasteurizing,
35 stabilizing, cooling, freezing, drying, or packaging egg products.

36 (8) "Egg product" means egg products that as of March 1, 2000, are
37 identified in 7 C.F.R., chapter 1, part 94.

1 (9) "Eligible investment project" means an investment in qualified
2 buildings or qualified machinery and equipment, including labor and
3 services rendered in the planning, installation, and construction of
4 the project. The lessor or owner of a qualified building is not
5 eligible for a deferral unless (a) the underlying ownership of the
6 buildings, machinery, and equipment vests exclusively in the same
7 person; or (b)(i) the lessor by written contract agrees to pass the
8 economic benefit of the deferral to the lessee in the form of reduced
9 rent payments, and (ii) the lessee that receives the economic benefit
10 of the deferral agrees in writing with the department to complete the
11 annual survey under RCW 82.74.040. The economic benefit of the
12 deferral to the lessee may be evidenced by any type of payment, credit,
13 or any other financial arrangement between the lessor or owner of the
14 qualified building and the lessee.

15 ~~((+5))~~ (10) "Fresh fruit and vegetable processing" means
16 manufacturing as defined in RCW 82.04.120 which consists of the
17 canning, preserving, freezing, processing, or dehydrating fresh fruits
18 and/or vegetables.

19 ~~((+6))~~ (11)(a) "Initiation of construction" means the date that a
20 building permit is issued under the building code adopted under RCW
21 19.27.031 for:

22 (i) Construction of the qualified building, if the underlying
23 ownership of the building vests exclusively with the person receiving
24 the economic benefit of the deferral;

25 (ii) Construction of the qualified building, if the economic
26 benefits of the deferral are passed to a lessee as provided in
27 subsection ~~((+4))~~ (9) of this section; or

28 (iii) Tenant improvements for a qualified building, if the economic
29 benefits of the deferral are passed to a lessee as provided in
30 subsection ~~((+4))~~ (9) of this section.

31 (b) "Initiation of construction" does not include soil testing,
32 site clearing and grading, site preparation, or any other related
33 activities that are initiated before the issuance of a building permit
34 for the construction of the foundation of the building.

35 (c) If the investment project is a phased project, "initiation of
36 construction" applies separately to each phase.

37 ~~((+7))~~ (12) "Person" has the meaning given in RCW 82.04.030.

1 (~~(8)~~) (13) "Qualified buildings" means construction of new
2 structures, and expansion or renovation of existing structures for the
3 purpose of increasing floor space or production capacity used for fresh
4 fruit and vegetable processing, dairy product manufacturing, egg
5 handling, cold storage (~~(warehouse)~~) warehousing, and research and
6 development activities, including plant offices and warehouses or other
7 facilities for the storage of raw material or finished goods if such
8 facilities are an essential or an integral part of a factory, plant, or
9 laboratory used for fresh fruit and vegetable processing, dairy product
10 manufacturing, egg handling, cold storage warehousing, or research and
11 development. If a building is used partly for fresh fruit and
12 vegetable processing, dairy product manufacturing, egg handling, cold
13 storage warehousing, or research and development and partly for other
14 purposes, the applicable tax deferral shall be determined by
15 apportionment of the costs of construction under rules adopted by the
16 department.

17 (~~(9)~~) (14) "Qualified machinery and equipment" means all
18 industrial and research fixtures, equipment, and support facilities
19 that are an integral and necessary part of a fresh fruit and vegetable
20 processing, dairy product manufacturing, egg handling, cold storage
21 warehouse, or research and development operation. "Qualified machinery
22 and equipment" includes: Computers; software; data processing
23 equipment; laboratory equipment; manufacturing components such as
24 belts, pulleys, shafts, and moving parts; molds, tools, and dies;
25 operating structures; and all equipment used to control or operate the
26 machinery.

27 (~~(10)~~) (15) "Recipient" means a person receiving a tax deferral
28 under this chapter.

29 (~~(11)~~) (16) "Research and development" means the development,
30 refinement, testing, marketing, and commercialization of a product,
31 service, or process related to fresh fruit and vegetable processing,
32 dairy product manufacturing, egg handling, or cold storage warehousing
33 before commercial sales have begun. As used in this subsection,
34 "commercial sales" excludes sales of prototypes or sales for market
35 testing if the total gross receipts from such sales of the product,
36 service, or process do not exceed one million dollars.

1 **Sec. 6.** RCW 82.74.030 and 2005 c 513 s 6 are each amended to read
2 as follows:

3 (1) The department shall issue a sales and use tax deferral
4 certificate for state and local sales and use taxes (~~(due)~~) imposed or
5 authorized under chapters 82.08, 82.12, and 82.14 RCW on each eligible
6 investment project if the investment project is undertaken for the
7 purpose of fresh fruit and vegetable processing, dairy product
8 manufacturing, egg handling, cold storage warehousing, or research and
9 development.

10 (2) This section expires July 1, 2012.

11 **Sec. 7.** RCW 82.74.040 and 2005 c 513 s 7 are each amended to read
12 as follows:

13 (1)(a) The legislature finds that accountability and effectiveness
14 are important aspects of setting tax policy. In order to make policy
15 choices regarding the best use of limited state resources the
16 legislature needs information on how a tax incentive is used.

17 (b) Each recipient of a deferral granted under this chapter shall
18 complete an annual survey. If the economic benefits of the deferral
19 are passed to a lessee as provided in RCW 82.74.010(~~((+4))~~) (9), the
20 lessee shall complete the annual survey and the applicant is not
21 required to complete the annual survey. The survey is due by March
22 31st of the year following the calendar year in which the investment
23 project is certified by the department as having been operationally
24 complete and each of the seven succeeding calendar years. The
25 department may extend the due date for timely filing of annual surveys
26 under this section as provided in RCW 82.32.590. The survey shall
27 include the amount of tax deferred. The survey shall also include the
28 following information for employment positions in Washington:

29 (i) The number of total employment positions;

30 (ii) Full-time, part-time, and temporary employment positions as a
31 percent of total employment;

32 (iii) The number of employment positions according to the following
33 wage bands: Less than thirty thousand dollars; thirty thousand dollars
34 or greater, but less than sixty thousand dollars; and sixty thousand
35 dollars or greater. A wage band containing fewer than three
36 individuals may be combined with another wage band; and

1 (iv) The number of employment positions that have employer-provided
2 medical, dental, and retirement benefits, by each of the wage bands.

3 (c) The department may request additional information necessary to
4 measure the results of the deferral program, to be submitted at the
5 same time as the survey.

6 (d) All information collected under this subsection, except the
7 amount of the tax deferral taken, is deemed taxpayer information under
8 RCW 82.32.330. Information on the amount of tax deferral taken is not
9 subject to the confidentiality provisions of RCW 82.32.330 and may be
10 disclosed to the public upon request.

11 (e) The department shall use the information from this section to
12 prepare summary descriptive statistics by category. No fewer than
13 three taxpayers shall be included in any category. The department
14 shall report these statistics to the legislature each year by September
15 1st.

16 (f) The department shall also use the information to study the tax
17 deferral program authorized under this chapter. The department shall
18 report to the legislature by December 1, 2011. The report shall
19 measure the effect of the program on job creation, (~~the number of jobs~~
20 ~~created for residents of eligible areas,~~) company growth, the
21 introduction of new products, the diversification of the state's
22 economy, growth in research and development investment, the movement of
23 firms or the consolidation of firms' operations into the state, and
24 such other factors as the department selects.

25 (2)(a) If a recipient of the deferral fails to complete the annual
26 survey required under subsection (1) of this section by the date due or
27 any extension under RCW 82.32.590, twelve and one-half percent of the
28 deferred tax shall be immediately due. If the economic benefits of the
29 deferral are passed to a lessee as provided in RCW 82.74.010(~~(+4)~~)
30 (9), the lessee shall be responsible for payment to the extent the
31 lessee has received the economic benefit. The department shall assess
32 interest, but not penalties, on the amounts due under this section.
33 The interest shall be assessed at the rate provided for delinquent
34 taxes under chapter 82.32 RCW, and shall accrue until the amounts due
35 are repaid.

36 (b) A recipient who must repay deferred taxes under RCW
37 82.74.050(2) because the department has found that an investment
38 project is used for purposes other than fresh fruit and vegetable

1 processing, dairy product manufacturing, egg handling, cold storage
2 warehousing, or research and development is no longer required to file
3 annual surveys under this section beginning on the date an investment
4 project is used for nonqualifying purposes.

5 **Sec. 8.** RCW 82.74.050 and 2005 c 513 s 8 are each amended to read
6 as follows:

7 (1) Except as provided in subsection (2) of this section, taxes
8 deferred under this chapter need not be repaid.

9 (2) If, on the basis of survey under RCW 82.74.040 or other
10 information, the department finds that an investment project is used
11 for purposes other than fresh fruit and vegetable processing, dairy
12 product manufacturing, egg handling, cold storage warehousing, or
13 research and development at any time during the calendar year in which
14 the investment project is certified by the department as having been
15 operationally completed, or at any time during any of the seven
16 succeeding calendar years, a portion of deferred taxes shall be
17 immediately due according to the following schedule:

18	Year in which <u>nonqualifying</u> use occurs	% of deferred taxes due
19	1	100%
20	2	87.5%
21	3	75%
22	4	62.5%
23	5	50%
24	6	37.5%
25	7	25%
26	8	12.5%

27 (3) The department shall assess interest, but not penalties, on the
28 deferred taxes under subsection (2) of this section. The interest
29 shall be assessed at the rate provided for delinquent taxes under
30 chapter 82.32 RCW, retroactively to the date of deferral, and shall
31 accrue until the deferred taxes are repaid. The debt for deferred
32 taxes will not be extinguished by insolvency or other failure of the
33 recipient. Transfer of ownership does not terminate the deferral. The
34 deferral is transferred, subject to the successor meeting the

1 eligibility requirements of this chapter, for the remaining periods of
2 the deferral.

3 (4) Notwithstanding subsection (2) of this section, deferred taxes
4 on the following need not be repaid:

5 (a) Machinery and equipment, and sales of or charges made for labor
6 and services, which at the time of purchase would have qualified for
7 exemption under RCW 82.08.02565; and

8 (b) Machinery and equipment which at the time of first use would
9 have qualified for exemption under RCW 82.12.02565.

10 **Sec. 9.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read
11 as follows:

12 (1) Wholesalers or third-party warehouseers who own or operate
13 warehouses or grain elevators and retailers who own or operate
14 distribution centers, and who have paid the tax levied by RCW 82.08.020
15 on:

16 (a) Material-handling and racking equipment, and labor and services
17 rendered in respect to installing, repairing, cleaning, altering, or
18 improving the equipment; or

19 (b) Construction of a warehouse or grain elevator, including
20 materials, and including service and labor costs,
21 are eligible for an exemption in the form of a remittance. The amount
22 of the remittance is computed under subsection (3) of this section and
23 is based on the state share of sales tax.

24 (2) For purposes of this section and RCW 82.12.820:

25 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

26 (b) "Construction" means the actual construction of a warehouse or
27 grain elevator that did not exist before the construction began.
28 "Construction" includes expansion if the expansion adds at least two
29 hundred thousand square feet of additional space to an existing
30 warehouse or additional storage capacity of at least one million
31 bushels to an existing grain elevator. "Construction" does not include
32 renovation, remodeling, or repair;

33 (c) "Department" means the department of revenue;

34 (d) "Distribution center" means a warehouse that is used
35 exclusively by a retailer solely for the storage and distribution of
36 finished goods to retail outlets of the retailer. "Distribution
37 center" does not include a warehouse at which retail sales occur;

1 (e) "Finished goods" means tangible personal property intended for
2 sale by a retailer or wholesaler. "Finished goods" does not include
3 agricultural products stored by wholesalers, third-party warehouses, or
4 retailers if the storage takes place on the land of the person who
5 produced the agricultural product. "Finished goods" does not include
6 logs, minerals, petroleum, gas, or other extracted products stored as
7 raw materials or in bulk;

8 (f) "Grain elevator" means a structure used for storage and
9 handling of grain in bulk;

10 (g) "Material-handling equipment and racking equipment" means
11 equipment in a warehouse or grain elevator that is primarily used to
12 handle, store, organize, convey, package, or repackage finished goods.
13 The term includes tangible personal property with a useful life of one
14 year or more that becomes an ingredient or component of the equipment,
15 including repair and replacement parts. The term does not include
16 equipment in offices, lunchrooms, restrooms, and other like space,
17 within a warehouse or grain elevator, or equipment used for
18 nonwarehousing purposes. "Material-handling equipment" includes but is
19 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
20 place units, cranes, hoists, mechanical arms, and robots; mechanized
21 systems, including containers that are an integral part of the system,
22 whose purpose is to lift or move tangible personal property; and
23 automated handling, storage, and retrieval systems, including computers
24 that control them, whose purpose is to lift or move tangible personal
25 property; and forklifts and other off-the-road vehicles that are used
26 to lift or move tangible personal property and that cannot be operated
27 legally on roads and streets. "Racking equipment" includes, but is not
28 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
29 pallets, and other containers and storage devices that form a necessary
30 part of the storage system;

31 (h) "Person" has the meaning given in RCW 82.04.030;

32 (i) "Retailer" means a person who makes "sales at retail" as
33 defined in chapter 82.04 RCW of tangible personal property;

34 (j) "Square footage" means the product of the two horizontal
35 dimensions of each floor of a specific warehouse. The entire footprint
36 of the warehouse shall be measured in calculating the square footage,
37 including space that juts out from the building profile such as loading

1 docks. "Square footage" does not mean the aggregate of the square
2 footage of more than one warehouse at a location or the aggregate of
3 the square footage of warehouses at more than one location;

4 (k) "Third-party warehouser" means a person taxable under RCW
5 82.04.280(4);

6 (l) "Warehouse" means an enclosed building or structure in which
7 finished goods are stored. A warehouse building or structure may have
8 more than one storage room and more than one floor. Office space,
9 lunchrooms, restrooms, and other space within the warehouse and
10 necessary for the operation of the warehouse are considered part of the
11 warehouse as are loading docks and other such space attached to the
12 building and used for handling of finished goods. Landscaping and
13 parking lots are not considered part of the warehouse. A storage yard
14 is not a warehouse, nor is a building in which manufacturing takes
15 place; and

16 (m) "Wholesaler" means a person who makes "sales at wholesale" as
17 defined in chapter 82.04 RCW of tangible personal property, but
18 "wholesaler" does not include a person who makes sales exempt under RCW
19 82.04.330.

20 (3)(a) A person claiming an exemption from state tax in the form of
21 a remittance under this section must pay the tax imposed by RCW
22 82.08.020. The buyer may then apply to the department for remittance
23 of all or part of the tax paid under RCW 82.08.020. For grain
24 elevators with bushel capacity of one million but less than two
25 million, the remittance is equal to fifty percent of the amount of tax
26 paid. For warehouses with square footage of two hundred thousand or
27 more and for grain elevators with bushel capacity of two million or
28 more, the remittance is equal to one hundred percent of the amount of
29 tax paid for qualifying construction, materials, service, and labor,
30 and fifty percent of the amount of tax paid for qualifying material-
31 handling equipment and racking equipment, and labor and services
32 rendered in respect to installing, repairing, cleaning, altering, or
33 improving the equipment.

34 (b) The department shall determine eligibility under this section
35 based on information provided by the buyer and through audit and other
36 administrative records. The buyer shall on a quarterly basis submit an
37 information sheet, in a form and manner as required by the department
38 by rule, specifying the amount of exempted tax claimed and the

1 qualifying purchases or acquisitions for which the exemption is
2 claimed. The buyer shall retain, in adequate detail to enable the
3 department to determine whether the equipment or construction meets the
4 criteria under this section: Invoices; proof of tax paid; documents
5 describing the material-handling equipment and racking equipment;
6 location and size of warehouses and grain elevators; and construction
7 invoices and documents.

8 (c) The department shall on a quarterly basis remit exempted
9 amounts to qualifying persons who submitted applications during the
10 previous quarter.

11 (4) Warehouses, grain elevators, and material-handling equipment
12 and racking equipment for which an exemption, credit, or deferral has
13 been or is being received under chapter 82.60, (~~(82.617)~~) 82.62, or
14 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
15 remittance under this section. Warehouses and grain elevators upon
16 which construction was initiated before May 20, 1997, are not eligible
17 for a remittance under this section.

18 (5) The lessor or owner of a warehouse or grain elevator is not
19 eligible for a remittance under this section unless the underlying
20 ownership of the warehouse or grain elevator and the material-handling
21 equipment and racking equipment vests exclusively in the same person,
22 or unless the lessor by written contract agrees to pass the economic
23 benefit of the remittance to the lessee in the form of reduced rent
24 payments.

25 **Sec. 10.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to
26 read as follows:

27 (1) Wholesalers or third-party warehouseers who own or operate
28 warehouses or grain elevators and retailers who own or operate
29 distribution centers, and who have paid the tax levied by RCW 82.08.020
30 on:

31 (a) Material-handling and racking equipment, and labor and services
32 rendered in respect to installing, repairing, cleaning, altering, or
33 improving the equipment; or

34 (b) Construction of a warehouse or grain elevator, including
35 materials, and including service and labor costs,
36 are eligible for an exemption in the form of a remittance. The amount

1 of the remittance is computed under subsection (3) of this section and
2 is based on the state share of sales tax.

3 (2) For purposes of this section and RCW 82.12.820:

4 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

5 (b) "Cold storage warehouse" (~~means a storage warehouse used to~~
6 ~~store fresh and/or frozen perishable fruits or vegetables, or any~~
7 ~~combination thereof, at a desired temperature to maintain the quality~~
8 ~~of the product for orderly marketing~~)) has the meaning provided in RCW
9 82.74.010;

10 (c) "Construction" means the actual construction of a warehouse or
11 grain elevator that did not exist before the construction began.
12 "Construction" includes expansion if the expansion adds at least
13 twenty-five thousand square feet of additional space to an existing
14 cold storage warehouse, at least two hundred thousand square feet of
15 additional space to an existing warehouse other than a cold storage
16 warehouse, or additional storage capacity of at least one million
17 bushels to an existing grain elevator. "Construction" does not include
18 renovation, remodeling, or repair;

19 (d) "Department" means the department of revenue;

20 (e) "Distribution center" means a warehouse that is used
21 exclusively by a retailer solely for the storage and distribution of
22 finished goods to retail outlets of the retailer. "Distribution
23 center" does not include a warehouse at which retail sales occur;

24 (f) "Finished goods" means tangible personal property intended for
25 sale by a retailer or wholesaler. "Finished goods" does not include
26 agricultural products stored by wholesalers, third-party warehouses, or
27 retailers if the storage takes place on the land of the person who
28 produced the agricultural product. "Finished goods" does not include
29 logs, minerals, petroleum, gas, or other extracted products stored as
30 raw materials or in bulk;

31 (g) "Grain elevator" means a structure used for storage and
32 handling of grain in bulk;

33 (h) "Material-handling equipment and racking equipment" means
34 equipment in a warehouse or grain elevator that is primarily used to
35 handle, store, organize, convey, package, or repackage finished goods.
36 The term includes tangible personal property with a useful life of one
37 year or more that becomes an ingredient or component of the equipment,
38 including repair and replacement parts. The term does not include

1 equipment in offices, lunchrooms, restrooms, and other like space,
2 within a warehouse or grain elevator, or equipment used for
3 nonwarehousing purposes. "Material-handling equipment" includes but is
4 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
5 place units, cranes, hoists, mechanical arms, and robots; mechanized
6 systems, including containers that are an integral part of the system,
7 whose purpose is to lift or move tangible personal property; and
8 automated handling, storage, and retrieval systems, including computers
9 that control them, whose purpose is to lift or move tangible personal
10 property; and forklifts and other off-the-road vehicles that are used
11 to lift or move tangible personal property and that cannot be operated
12 legally on roads and streets. "Racking equipment" includes, but is not
13 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
14 pallets, and other containers and storage devices that form a necessary
15 part of the storage system;

16 (i) "Person" has the meaning given in RCW 82.04.030;

17 (j) "Retailer" means a person who makes "sales at retail" as
18 defined in chapter 82.04 RCW of tangible personal property;

19 (k) "Square footage" means the product of the two horizontal
20 dimensions of each floor of a specific warehouse. The entire footprint
21 of the warehouse shall be measured in calculating the square footage,
22 including space that juts out from the building profile such as loading
23 docks. "Square footage" does not mean the aggregate of the square
24 footage of more than one warehouse at a location or the aggregate of
25 the square footage of warehouses at more than one location;

26 (l) "Third-party warehouser" means a person taxable under RCW
27 82.04.280(4);

28 (m) "Warehouse" means an enclosed building or structure in which
29 finished goods are stored. A warehouse building or structure may have
30 more than one storage room and more than one floor. Office space,
31 lunchrooms, restrooms, and other space within the warehouse and
32 necessary for the operation of the warehouse are considered part of the
33 warehouse as are loading docks and other such space attached to the
34 building and used for handling of finished goods. Landscaping and
35 parking lots are not considered part of the warehouse. A storage yard
36 is not a warehouse, nor is a building in which manufacturing takes
37 place; and

1 (n) "Wholesaler" means a person who makes "sales at wholesale" as
2 defined in chapter 82.04 RCW of tangible personal property, but
3 "wholesaler" does not include a person who makes sales exempt under RCW
4 82.04.330.

5 (3)(a) A person claiming an exemption from state tax in the form of
6 a remittance under this section must pay the tax imposed by RCW
7 82.08.020. The buyer may then apply to the department for remittance
8 of all or part of the tax paid under RCW 82.08.020. For grain
9 elevators with bushel capacity of one million but less than two
10 million, the remittance is equal to fifty percent of the amount of tax
11 paid. For warehouses with square footage of two hundred thousand or
12 more, other than cold storage warehouses, and for grain elevators with
13 bushel capacity of two million or more, the remittance is equal to one
14 hundred percent of the amount of tax paid for qualifying construction,
15 materials, service, and labor, and fifty percent of the amount of tax
16 paid for qualifying material-handling equipment and racking equipment,
17 and labor and services rendered in respect to installing, repairing,
18 cleaning, altering, or improving the equipment. For cold storage
19 warehouses with square footage of twenty-five thousand or more, the
20 remittance is equal to one hundred percent of the amount of tax paid
21 for qualifying construction, materials, service, and labor, and one
22 hundred percent of the amount of tax paid for qualifying material-
23 handling equipment and racking equipment, and labor and services
24 rendered in respect to installing, repairing, cleaning, altering, or
25 improving the equipment.

26 (b) The department shall determine eligibility under this section
27 based on information provided by the buyer and through audit and other
28 administrative records. The buyer shall on a quarterly basis submit an
29 information sheet, in a form and manner as required by the department
30 by rule, specifying the amount of exempted tax claimed and the
31 qualifying purchases or acquisitions for which the exemption is
32 claimed. The buyer shall retain, in adequate detail to enable the
33 department to determine whether the equipment or construction meets the
34 criteria under this section: Invoices; proof of tax paid; documents
35 describing the material-handling equipment and racking equipment;
36 location and size of warehouses and grain elevators; and construction
37 invoices and documents.

1 (c) The department shall on a quarterly basis remit exempted
2 amounts to qualifying persons who submitted applications during the
3 previous quarter.

4 (4) Warehouses, grain elevators, and material-handling equipment
5 and racking equipment for which an exemption, credit, or deferral has
6 been or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or
7 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
8 remittance under this section. Warehouses and grain elevators upon
9 which construction was initiated before May 20, 1997, are not eligible
10 for a remittance under this section.

11 (5) The lessor or owner of a warehouse or grain elevator is not
12 eligible for a remittance under this section unless the underlying
13 ownership of the warehouse or grain elevator and the material-handling
14 equipment and racking equipment vests exclusively in the same person,
15 or unless the lessor by written contract agrees to pass the economic
16 benefit of the remittance to the lessee in the form of reduced rent
17 payments.

18 **Sec. 11.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to
19 read as follows:

20 (1) Wholesalers or third-party warehouseurs who own or operate
21 warehouses or grain elevators and retailers who own or operate
22 distribution centers, and who have paid the tax levied by RCW 82.08.020
23 on:

24 (a) Material-handling and racking equipment, and labor and services
25 rendered in respect to installing, repairing, cleaning, altering, or
26 improving the equipment; or

27 (b) Construction of a warehouse or grain elevator, including
28 materials, and including service and labor costs,
29 are eligible for an exemption in the form of a remittance. The amount
30 of the remittance is computed under subsection (3) of this section and
31 is based on the state share of sales tax.

32 (2) For purposes of this section and RCW 82.12.820:

33 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

34 (b) (~~"Cold storage warehouse" means a storage warehouse used to~~
35 ~~store fresh and/or frozen perishable fruits or vegetables, or any~~
36 ~~combination thereof, at a desired temperature to maintain the quality~~
37 ~~of the product for orderly marketing;~~

1 ~~(e)~~) "Construction" means the actual construction of a warehouse
2 or grain elevator that did not exist before the construction began.
3 "Construction" includes expansion if the expansion adds ~~((at least~~
4 ~~twenty five thousand square feet of additional space to an existing~~
5 ~~cold storage warehouse,~~) at least two hundred thousand square feet of
6 additional space to an existing warehouse ~~((other than a cold storage~~
7 ~~warehouse,~~) or additional storage capacity of at least one million
8 bushels to an existing grain elevator. "Construction" does not include
9 renovation, remodeling, or repair;

10 ~~((d))~~ (c) "Department" means the department of revenue;

11 ~~((e))~~ (d) "Distribution center" means a warehouse that is used
12 exclusively by a retailer solely for the storage and distribution of
13 finished goods to retail outlets of the retailer. "Distribution
14 center" does not include a warehouse at which retail sales occur;

15 ~~((f))~~ (e) "Finished goods" means tangible personal property
16 intended for sale by a retailer or wholesaler. "Finished goods" does
17 not include agricultural products stored by wholesalers, third-party
18 warehouses, or retailers if the storage takes place on the land of the
19 person who produced the agricultural product. "Finished goods" does
20 not include logs, minerals, petroleum, gas, or other extracted products
21 stored as raw materials or in bulk;

22 ~~((g))~~ (f) "Grain elevator" means a structure used for storage and
23 handling of grain in bulk;

24 ~~((h))~~ (g) "Material-handling equipment and racking equipment"
25 means equipment in a warehouse or grain elevator that is primarily used
26 to handle, store, organize, convey, package, or repackage finished
27 goods. The term includes tangible personal property with a useful life
28 of one year or more that becomes an ingredient or component of the
29 equipment, including repair and replacement parts. The term does not
30 include equipment in offices, lunchrooms, restrooms, and other like
31 space, within a warehouse or grain elevator, or equipment used for
32 nonwarehousing purposes. "Material-handling equipment" includes but is
33 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
34 place units, cranes, hoists, mechanical arms, and robots; mechanized
35 systems, including containers that are an integral part of the system,
36 whose purpose is to lift or move tangible personal property; and
37 automated handling, storage, and retrieval systems, including computers
38 that control them, whose purpose is to lift or move tangible personal

1 property; and forklifts and other off-the-road vehicles that are used
2 to lift or move tangible personal property and that cannot be operated
3 legally on roads and streets. "Racking equipment" includes, but is not
4 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
5 pallets, and other containers and storage devices that form a necessary
6 part of the storage system;

7 ~~((+i))~~ (h) "Person" has the meaning given in RCW 82.04.030;

8 ~~((+j))~~ (i) "Retailer" means a person who makes "sales at retail"
9 as defined in chapter 82.04 RCW of tangible personal property;

10 ~~((+k))~~ (j) "Square footage" means the product of the two
11 horizontal dimensions of each floor of a specific warehouse. The
12 entire footprint of the warehouse shall be measured in calculating the
13 square footage, including space that juts out from the building profile
14 such as loading docks. "Square footage" does not mean the aggregate of
15 the square footage of more than one warehouse at a location or the
16 aggregate of the square footage of warehouses at more than one
17 location;

18 ~~((+l))~~ (k) "Third-party warehouse" means a person taxable under
19 RCW 82.04.280(4);

20 ~~((+m))~~ (l) "Warehouse" means an enclosed building or structure in
21 which finished goods are stored. A warehouse building or structure may
22 have more than one storage room and more than one floor. Office space,
23 lunchrooms, restrooms, and other space within the warehouse and
24 necessary for the operation of the warehouse are considered part of the
25 warehouse as are loading docks and other such space attached to the
26 building and used for handling of finished goods. Landscaping and
27 parking lots are not considered part of the warehouse. A storage yard
28 is not a warehouse, nor is a building in which manufacturing takes
29 place; and

30 ~~((+n))~~ (m) "Wholesaler" means a person who makes "sales at
31 wholesale" as defined in chapter 82.04 RCW of tangible personal
32 property, but "wholesaler" does not include a person who makes sales
33 exempt under RCW 82.04.330.

34 (3)(a) A person claiming an exemption from state tax in the form of
35 a remittance under this section must pay the tax imposed by RCW
36 82.08.020. The buyer may then apply to the department for remittance
37 of all or part of the tax paid under RCW 82.08.020. For grain
38 elevators with bushel capacity of one million but less than two

1 million, the remittance is equal to fifty percent of the amount of tax
2 paid. For warehouses with square footage of two hundred thousand or
3 more(~~(, other than cold storage warehouses,)~~) and for grain elevators
4 with bushel capacity of two million or more, the remittance is equal to
5 one hundred percent of the amount of tax paid for qualifying
6 construction, materials, service, and labor, and fifty percent of the
7 amount of tax paid for qualifying material-handling equipment and
8 racking equipment, and labor and services rendered in respect to
9 installing, repairing, cleaning, altering, or improving the equipment.
10 (~~(For cold storage warehouses with square footage of twenty five
11 thousand or more, the remittance is equal to one hundred percent of the
12 amount of tax paid for qualifying construction, materials, service, and
13 labor, and one hundred percent of the amount of tax paid for qualifying
14 material handling equipment and racking equipment, and labor and
15 services rendered in respect to installing, repairing, cleaning,
16 altering, or improving the equipment.)~~)

17 (b) The department shall determine eligibility under this section
18 based on information provided by the buyer and through audit and other
19 administrative records. The buyer shall on a quarterly basis submit an
20 information sheet, in a form and manner as required by the department
21 by rule, specifying the amount of exempted tax claimed and the
22 qualifying purchases or acquisitions for which the exemption is
23 claimed. The buyer shall retain, in adequate detail to enable the
24 department to determine whether the equipment or construction meets the
25 criteria under this section: Invoices; proof of tax paid; documents
26 describing the material-handling equipment and racking equipment;
27 location and size of warehouses and grain elevators; and construction
28 invoices and documents.

29 (c) The department shall on a quarterly basis remit exempted
30 amounts to qualifying persons who submitted applications during the
31 previous quarter.

32 (4) Warehouses, grain elevators, and material-handling equipment
33 and racking equipment for which an exemption, credit, or deferral has
34 been or is being received under chapter 82.60, (~~((82.61,))~~) 82.62, or
35 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
36 remittance under this section. Warehouses and grain elevators upon
37 which construction was initiated before May 20, 1997, are not eligible
38 for a remittance under this section.

1 (5) The lessor or owner of a warehouse or grain elevator is not
2 eligible for a remittance under this section unless the underlying
3 ownership of the warehouse or grain elevator and the material-handling
4 equipment and racking equipment vests exclusively in the same person,
5 or unless the lessor by written contract agrees to pass the economic
6 benefit of the remittance to the lessee in the form of reduced rent
7 payments.

8 **Sec. 12.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to
9 read as follows:

10 (1) Wholesalers or third-party warehouseurs who own or operate
11 warehouses or grain elevators, and retailers who own or operate
12 distribution centers, and who have paid the tax levied under RCW
13 82.12.020 on:

14 (a) Material-handling equipment and racking equipment and labor and
15 services rendered in respect to installing, repairing, cleaning,
16 altering, or improving the equipment; or

17 (b) Materials incorporated in the construction of a warehouse or
18 grain elevator, are eligible for an exemption on tax paid in the form
19 of a remittance or credit against tax owed. The amount of the
20 remittance or credit is computed under subsection (2) of this section
21 and is based on the state share of use tax.

22 (2)(a) A person claiming an exemption from state tax in the form of
23 a remittance under this section must pay the tax imposed by RCW
24 82.12.020 to the department. The person may then apply to the
25 department for remittance of all or part of the tax paid under RCW
26 82.12.020. For grain elevators with bushel capacity of one million but
27 less than two million, the remittance is equal to fifty percent of the
28 amount of tax paid. For warehouses with square footage of two hundred
29 thousand or more(~~(, other than cold storage warehouses,)~~) and for grain
30 elevators with bushel capacity of two million or more, the remittance
31 is equal to one hundred percent of the amount of tax paid for
32 qualifying construction materials, and fifty percent of the amount of
33 tax paid for qualifying material-handling equipment and racking
34 equipment. (~~((For cold storage warehouses with square footage of
35 twenty five thousand or more, the remittance is equal to one hundred
36 percent of the amount of tax paid for qualifying construction,
37 materials, service, and labor, and one hundred percent of the amount of~~

1 tax paid for qualifying material handling equipment and racking
2 equipment, and labor and services rendered in respect to installing,
3 repairing, cleaning, altering, or improving the equipment.)

4 (b) The department shall determine eligibility under this section
5 based on information provided by the buyer and through audit and other
6 administrative records. The buyer shall on a quarterly basis submit an
7 information sheet, in a form and manner as required by the department
8 by rule, specifying the amount of exempted tax claimed and the
9 qualifying purchases or acquisitions for which the exemption is
10 claimed. The buyer shall retain, in adequate detail to enable the
11 department to determine whether the equipment or construction meets the
12 criteria under this section: Invoices; proof of tax paid; documents
13 describing the material-handling equipment and racking equipment;
14 location and size of warehouses, if applicable; and construction
15 invoices and documents.

16 (c) The department shall on a quarterly basis remit or credit
17 exempted amounts to qualifying persons who submitted applications
18 during the previous quarter.

19 (3) Warehouse, grain elevators, and material-handling equipment and
20 racking equipment for which an exemption, credit, or deferral has been
21 or is being received under chapter 82.60, (~~82.61~~) 82.62, or 82.63
22 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
23 remittance under this section. Materials incorporated in warehouses
24 and grain elevators upon which construction was initiated prior to May
25 20, 1997, are not eligible for a remittance under this section.

26 (4) The lessor or owner of the warehouse or grain elevator is not
27 eligible for a remittance or credit under this section unless the
28 underlying ownership of the warehouse or grain elevator and material-
29 handling equipment and racking equipment vests exclusively in the same
30 person, or unless the lessor by written contract agrees to pass the
31 economic benefit of the exemption to the lessee in the form of reduced
32 rent payments.

33 (5) The definitions in RCW 82.08.820 apply to this section.

34 **Sec. 13.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to
35 read as follows:

36 (1) Persons required to file surveys under RCW 82.04.4452,
37 82.32.610, or 82.74.040 must electronically file with the department

1 all surveys, returns, and any other forms or information the department
2 requires in an electronic format as provided or approved by the
3 department(~~(, unless the department grants relief under subsection (2)~~
4 ~~of this section)~~). As used in this section, "returns" has the same
5 meaning as "return" in RCW 82.32.050.

6 ~~(2) ((Upon request, the department may relieve a person of the~~
7 ~~obligations in subsection (1) of this section if the person's taxes~~
8 ~~have been reduced a cumulative total of less than one thousand dollars~~
9 ~~from all of the credits, exemptions, or preferential business and~~
10 ~~occupation tax rates, for which a person is required to file an annual~~
11 ~~survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,~~
12 ~~82.32.560, 82.60.070, or 82.63.020.~~

13 ~~(3) Persons who no longer qualify for relief under subsection (2)~~
14 ~~of this section will be notified in writing by the department and must~~
15 ~~comply with subsection (1) of this section by the date provided in the~~
16 ~~notice.~~

17 ~~(4))~~ Any survey, return, or any other form or information required
18 to be filed in an electronic format under subsection (1) of this
19 section is not filed until received by the department in an electronic
20 format.

21 (3) The department may waive the electronic filing requirement in
22 subsection (1) of this section for good cause shown.

23 **Sec. 14.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to
24 read as follows:

25 (1) If the department finds that the failure of a taxpayer to file
26 an annual survey under RCW 82.04.4452, 82.32.610, or 82.74.040 by the
27 due date was the result of circumstances beyond the control of the
28 taxpayer, the department shall extend the time for filing the survey.
29 Such extension shall be for a period of thirty days from the date the
30 department issues its written notification to the taxpayer that it
31 qualifies for an extension under this section. The department may
32 grant additional extensions as it deems proper.

33 (2) In making a determination whether the failure of a taxpayer to
34 file an annual survey by the due date was the result of circumstances
35 beyond the control of the taxpayer, the department shall be guided by
36 rules adopted by the department for the waiver or cancellation of

1 penalties when the underpayment or untimely payment of any tax was due
2 to circumstances beyond the control of the taxpayer.

3 NEW SECTION. **Sec. 15.** (1) Except as otherwise provided in this
4 section, this act takes effect July 1, 2006.

5 (2) Sections 5 through 8 and 10 of this act take effect July 1,
6 2007.

7 (3) Sections 11 and 12 of this act take effect July 1, 2012.

8 NEW SECTION. **Sec. 16.** Section 9 of this act expires July 1, 2007.

9 NEW SECTION. **Sec. 17.** Section 10 of this act expires July 1,
10 2012."

EHB 3159 - S COMM AMD
By Committee on Ways & Means

NOT ADOPTED 03/07/2006

11 On page 1, line 1 of the title, after "products;" strike the
12 remainder of the title and insert "amending RCW 82.04.4266, 82.32.610,
13 82.74.010, 82.74.030, 82.74.040, 82.74.050, 82.08.820, 82.08.820,
14 82.08.820, 82.12.820, 82.32.600, and 82.32.590; reenacting and amending
15 RCW 82.04.260; adding a new section to chapter 82.04 RCW; providing
16 effective dates; and providing expiration dates."

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